

d) Remarks

Summary of the Office Action

A restriction requirement has been imposed between Group I, consisting of claims 1-9, Group II, consisting of claims 10-16, Group III, consisting of claims 17 and 18 and Group IV, consisting of claims 19 and 20. Based on the undersigned's response to a telephonic election, claims 1-9 have been examined and claims 10-20 have been withdrawn from consideration.

Claims 1-6 have been rejected under 35 U.S.C. 102(e) as anticipated Bates et al. U.S. Patent 6,468,291 ("Bates").

Claims 7-9 have been rejected under 35 U.S.C. 103(a) as obvious over Bates.

Applicants' Response

The present invention discloses an apparatus for removing a vascular occlusion including a thrombectomy wire and at least one deployable wire that is expandable in a direction radially outward from the thrombectomy wire. As described in the specification at page 25, line 13 to page 26, line 9, and illustrated in FIGS. 10, in operation, the distal tip of the thrombectomy wire is used to pierce a vascular thrombus. The deployable wire then is deployed within the thrombus.

As described with respect to FIGS. 9 and at page 23, line 7 through page 25, line 12 of the specification, the deployable wire is coupled to the thrombectomy wire so that rotation of thrombectomy wire rotates the deployable wire. Once the deployable wire is deployed within the thrombus, the thrombectomy wire is rotated such that individual fibrin strands within the thrombus are wound about the deployable wire. The

deployable wire then is retracted into the catheter with the thrombus.

By contrast, Bates teaches an embolic filtration apparatus comprising filter element 120 including tubular segment 121 disposed on guide wire 122. Filter element 120 also includes self-expanding struts 123 that form a basket in an expanded state. Blood permeable mesh 124 that forms a filter is attached to struts 123. An important aspect of the Bates filter is that the basket *is designed to permit the wire to freely rotate and translate, without transmitting that force to the basket or disturbing the deployed position of the basket*. That is, the basket "floats" on the wire. See, e.g., Bates at column 2, lines 40-47 and column 2, line 64 to column 3, line 1. This design is antithetical to the claimed structure and function of the present invention.

Independent claim 1 has been amended to clarify that the deployable wire *"is coupled to the thrombectomy wire so that rotation of the thrombectomy wire is transmitted to the deployable wire to engage fibrin strands of the occlusion."* Support for this claim limitation may be found, for example, in the passages cited hereinabove. Bates, on the other hand, does not teach an apparatus for removing a vascular occlusion including a deployable wire that may be rotated to capture a vascular occlusion. Even if the plurality of struts 123 that form the basket of the Bates filter could be deployed within a vascular occlusion, because that basket "floats" on the wire, rotation of the Bates wire *would not* cause rotation of the basket to engage the fibrin strands of the occlusion, as recited in amended claim 1. Accordingly, the structure disclosed in Bates cannot correspond to the structure recited in the present application, nor can the Bates device be used in the manner

described and claimed for the structure of the present invention.

In view of the above, applicants submit that Bates does not anticipate claim 1 (or claims 2-6, which depend from claim 1). Moreover, because the Bates structure functions in a substantially different way than the claimed invention, neither it nor Bates '056 renders the claimed invention obvious.

CONCLUSION

In view of the foregoing, applicants respectfully submit that the application is in condition for allowance. An early and favorable action is earnestly requested.

Respectfully submitted,



Nicola A. Pisano
Registration No: 34,408
Attorney for Applicants

c/o LUCE, FORWARD,
HAMILTON & SCRIPPS, LLP
11988 El Camino Real, Suite 200
San Diego, California 92130
Tel.: 858.720.6320
Fax.: 858.523.4326